

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA**

<b>RICKEY WHITE,</b>	)	
	)	
<b>Petitioner,</b>	)	
	)	
<b>v.</b>	)	<b>Case NO. CIV-08-1316-R</b>
	)	
<b>MARTY SIRMONS,</b>	)	
	)	
<b>Respondent.</b>	)	

**ORDER**

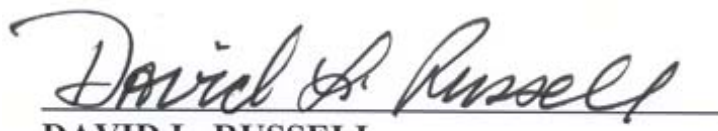
Petitioner filed this action pursuant to 28 U.S.C § 2254, seeking a writ of habeas corpus. Pursuant to 28 U.S.C. § 636(b)(1)( B), the matter was referred to United States Magistrate Judge Doyle W. Argo for preliminary review. On December 30, 2008, Judge Argo issued a Report and Recommendation, wherein he recommended the petition be dismissed as second or successive. The matter is currently before the Court on Petitioner's timely objection to the Report and Recommendation.

Judge Argo correctly noted that Petitioner has previously challenged his conviction in Case No CRF-1981-83, District Court of Choctaw County in both this Court and the Eastern District of Oklahoma. As such, the instant petition is second or successive, and the Court is without jurisdiction to consider the merits of his instant claims. Further, as noted by Judge Argo, Petitioner's instant claims do not warrant transfer of the petition to the United States Court of Appeals for the Tenth Circuit because his claims lack merit. Should Petitioner wish to pursue his claims he may seek permission directly from the Tenth Circuit. The Court hereby adopts the Report and Recommendation in its entirety, and the petition is hereby DISMISED UPON FILING.

Additionally, Petitioner has filed numerous motions in this action, none of which alter the

Court's conclusion or the propriety of Judge Argo's recommendation. The motions are therefore DENIED.

IT IS SO ORDERED this 7th day of January 2009.

  
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DAVID L. RUSSELL  
UNITED STATES DISTRICT JUDGE